

Appl. No. 10/758,997
Docket No. P155
Amdt. dated July 7, 2008
Reply to Office Action mailed on March 5, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 39 are pending in the present application. No additional claims fee is believed to be due. Claims 8 – 14, 27 – 33 and 39 have been withdrawn as a result of an earlier restriction requirement. Claims 1, 15, 17, 20, 34, 36 and 38 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 20 – 26 and 34 – 36 have been rejected under 35 U.S.C. § 112, Second Paragraph as “being indefinite for failing to particularly and distinctly claim the subject matter which applicant regards as the invention.” The Office Action states that it is “unclear what is meant by ‘essentially free of tomato flavor.’” Applicants respectfully submit that by such phrase it is meant that the compositions have relatively low tomato flavor content. Applicants respectfully point to the specification, page 5 lines 23 – 26 and page 6, lines 1 – 9, where the same phrase is used with regards to sugar content. Applicants respectfully submit that one of ordinary skill, in reading the specification, would be able to understand what is meant by the phrase “essentially free of tomato flavor.”

Claim 38 has been rejected under 35 U.S.C. § 112, Second Paragraph as “being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” The Office Action states that “[c]laim 38 recites the limitation ‘said first composition’ in the 3rd line of the claim. There is insufficient antecedent basis for this limitation in the claim.” Claim 38 has been amended according to the suggestion provided by the Office.

Applicants respectfully request withdrawal of these rejections.

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Rejection Under 35 U.S.C. § 102 Over Chu

Claims 1 – 5 and 20 – 24 stand rejected under 35 U.S.C. § 102 as being anticipated by Chu et al. (US Patent Application No. 2002/0025325) (“Chu”). Applicants respectfully traverse this rejection.

Chu is directed to “methods and compositions both for providing protection against disease in an animal and for inducing increased intake of an orally administered vaccine by an animal.” *Abstract*. Chu, however, fails to teach each and every element of the claims. Claim 1, as amended, is directed to, *inter alia*, a liquid composition comprising beet pulp, a medicament, a flavorant, and water, wherein the liquid composition is substantially free of sugars and is adapted for use by a companion animal. Claim 20, as amended, is directed to, *inter alia*, a liquid composition comprising beet pulp, a medicament, a flavorant, and water, wherein the liquid composition is substantially free of tomato flavors and is adapted for use by a companion animal. As best understood by Applicants, Chu fails to teach a composition comprising beet pulp. As Chu fails to teach each and every element of the claims Chu cannot be said to anticipate the claims. Applicants respectfully requests reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Chu

Claims 1 – 7, 15 – 26, and 34 – 38 stand rejected under 35 U.S.C. § 103 as being unpatentable over Tinembart et al. (US Patent Application No. 2002/0058683) (“Tinembart”) in view of Chu. Applicants respectfully traverse this rejection.

Tinembart is directed to a:

veterinarian preparation for fleas is described, which consists of an amount that is effective against fleas of a combination of a compound of formula (I), wherein R₁ hydrogen, C₁-C₆-alkyl or C₃-C₇-cycloalkyl; R₂ is hydrogen, C₁-C₆-alkyl, or C₃-C₇-cycloalkyl; R₃ is hydrogen or C₁-C₆-alkyl; and A is heterocycly which is unsubstituted or substituted once or repeatedly by identical or different halogen atoms; and a compound of formula (II), wherein X is halogen, X₁ is hydrogen or halogen; X₂ is hydrogen or halogen; Y is partially or completely halogenated C₁-C₆-alkoxy which is interrupted by one oxygen atom, or partially or completely halogenated

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C₂-C₆-alkenyl; Y₁ is hydrogen or halogen; Y₂ is hydrogen or halogen; Y₃ is hydrogen or halogen; Z₁ is hydrogen or C₁-C₃-alkyl; and Z₂ is hydrogen or C₂-C₃-alkyl; and a physiologically acceptable formulation excipient.

Abstract. Tinembart and Chu, either alone or in combination, however, fail to teach the liquid compositions of the current application.

Claim 1, as amended, is directed to, *inter alia*, a liquid composition comprising beet pulp, a medicament, a flavorant, and water, wherein the liquid composition is substantially free of sugars and is adapted for use by a companion animal. Claim 15, as amended, is directed to, *inter alia*, a kit comprising a container and a composition housed within the container wherein the composition comprises beet pulp, a medicament, a flavorant, and water, wherein the composition is essentially free of sugars and is adapted for use by a companion animal. Claim 17, as amended, is directed to, *inter alia*, a kit comprising a compartmentalized container and one or more compositions comprising beet pulp, a medicament, a flavorant, and water wherein the composition is essentially free of sugars and is adapted for use by a companion animal. Claim 19 is directed to, *inter alia*, a kit comprising a compartmentalized container, and a first composition comprising a medicament housed in a first compartment and a composition comprising a flavorant and water housed in a compartment that is not the first compartment, and wherein the compositions are essentially free of sugars and adapted for use by a companion animal. Claim 20, as amended, is directed to, *inter alia*, a liquid composition comprising beet pulp, a medicament, a flavorant, and water, wherein the liquid composition is substantially free of tomato flavors and is adapted for use by a companion animal. Claim 34, as amended, is directed to, *inter alia*, a kit comprising a container and a composition housed within the container wherein the composition comprises beet pulp, a medicament, a flavorant, and water, wherein the composition is essentially free of tomato flavor and is adapted for use by a companion animal. Claim 36, as amended, is directed to, *inter alia*, a kit comprising a compartmentalized container and one or more compositions comprising beet pulp, a medicament, a flavorant, and water, wherein the composition is essentially free of tomato flavor and is adapted for use by a companion animal. Claim 38, is directed to, *inter alia*, a kit comprising a compartmentalized container, and a first composition comprising a medicament housed in a first compartment and a composition comprising a flavorant and water housed in a compartment that is not the first

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compartment, and wherein the compositions are essentially free of tomato flavor and adapted for use by a companion animal.

As best understood by Applicants, Tinembart and Chu, either alone or in combination, fail to teach compositions comprising beet pulp wherein the compositions are essentially free of sugars or tomato flavors and fail to teach kits comprising compositions comprising beet pulp wherein the compositions are essentially free of sugars or tomato flavors. As best understood by Applicants, Tinembart and Chu, either alone or in combination, fail to teach kits comprising compartmentalized containers wherein a composition comprising a medicament is housed in a compartment that is separate from a compartment housing a composition comprising a flavorant, water, and is essentially free of sugars or tomato flavors. Thus, there is no expectation of success found in the combination of Tinembart and Chu in arriving at the current claims.

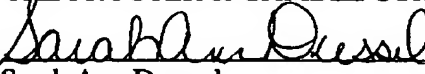
Applicants respectfully request reconsideration and withdrawal of the rejection.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Sarah Ann Dressel
Registration No. 58,484
(513) 634-1452

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